

**UNITED STATES DISTRICT COURT  
DISTRICT OF ARIZONA**

**James Arnett,**

**Plaintiff,**

**vs.**

**Benjamin Snow Howard, et al.,**

**Defendants.**

**CV-12-311-TUC-DCB**

**ORDER**

---

Magistrate Judge Ferraro issued his Report and Recommendation on May 29, 2013, recommending that the District Court deny the motion to dismiss and transfer the action to Utah. A copy was sent to all parties on May 29, 2013, notifying all parties that written objections must be filed within fourteen days of service. 28 U.S.C. §636(b). No objections to the Magistrate Judge's Report and Recommendation have been filed. Consequently, any objections that have not been raised are waived and will not be addressed by the Court.<sup>1</sup>

The Court, having made an independent review of the record, orders as follows:

IT IS ORDERED that Magistrate Judge Ferraro's Report and Recommendation (Doc. 47) is ACCEPTED and ADOPTED by this Court as the findings of fact and conclusions of law.

IT IS FURTHER ORDERED that Defendants' Motion to Dismiss (Doc. 37) is DENIED in part and GRANTED in part. The motion to dismiss is denied for lack of personal jurisdiction, improper venue, and failure to state a claim upon which relief can be granted. The motion contains the alternative request to transfer venue to Utah, which the


---

<sup>1</sup>Plaintiff filed a Motion to Consolidate this action with another civil action, but he is not the Plaintiff in that action, the basis for consolidation is unclear, and not all of the parties have been served. Defendants opposed the motion. The motion does not comply with LRCiv 42.1.

1 Court GRANTS, and this action is transferred to the United States District Court for the  
2 District of Utah. The Clerk's Office is directed to transfer this action to Utah in accordance  
3 with the Court's Order.

4 IT IS FURTHER ORDERED that the Motion to Consolidate (Doc. 39) is DENIED.

5 DATED this 24<sup>th</sup> day of June, 2013.

6  
7  
8   
9 David C. Bury  
United States District Judge